

Legis File No. 5-5-16,

Serial Nos. 1-5

190

GENERAL AND REVENUE SECRETARIAT.

(Legislative)

*Presented
for
11/10/26*

Part A: Manuscript
for

Sub

Serial Nos. 1-5

*subject The Indian Soldiers Litigation
(Emergency) Regulation, V of 1915*

GENERAL AND REVENUE SECRETARIAT.

(Gen. Min.)

NOTES.

Lys 57-116

File No. 319-2

FILE HEADING.

Question of legislation with the object of
affording protection to Indian Soldiers
from Civil litigation in British India during War

From

The F. A Resident in Mysore

No. 1629

Dated 6-3-1915

Received

8-3

715

Diary No.

7658

Enclos.

Spare Copies.

Serial No.

BRIEF ABSTRACT OF LETTER.

States that the Durbars of some Native States have
already indicated some action regarding the question
and brings the matter to the notice of the Mysore Dur
with a view to protect in the State the interests of
soldiers whether belonging to the I. S. T or to the Indian Army
who are unable on account of the war to look after the
own affairs

NOTES AND ORDERS.

secretary's remarks.

Consult Branch III

Initd D. M. N.

8/3/15

Dus 405 14

Promised 3 Br III. for a note

15

NOTES—First Sheet. 8.3

Mon
8/3

G. R. S. 12]

General and Revenue
Secretariat.

Lrs 57 of 1914-15

G.m File No 319* of 1914.

Serial
No.

To the J. A. Resident in Mysore
Pol. no. 886 of 13. 3. 1915 States
that the Durbar will be quit
prepared to Consider what
steps should be taken in
the matter on receipt of the
British Indian Ordinance on
the subject

12) To the Dewans of Mysore with re-
ference to Secretary's remarks on
the previous page (Paragraph 11)

153 bus
17.3.15

13) Seen/

2.15 do
ques/ 15/4
Kam
16/4

Serial
No.

(14) Extract from Hon^{ble} Secretary's order on routine note submitting the Gazette of Ind. extraordinary of 8/5/15 containing the Govt. of India Ordinance No II of 1915 (An Ordinance to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions)

"I remember we have already intimated to the Residency that we would introduce an ordinance on the lines of the British Indian Ordinance. Please put up that file with a draft urgent)

Intd G.S.
13/5/15

(15) Subv. with a draft ^{Reg.} drawn up on the lines of the emergency regulations passed last year. Clause 2 is added so as to make the Act as provisions of the Ordinance applicable to the case of the men and officers of the Mysore Military Forces who are now on active service. The term Mysore Military Forces has been defined in the code of war - Procedure 1211 an

Serial
No.

meaning and including the Mysore
Imperial Service Cavalry and Transport
Corps, the Local Service Troops (the
Barr and Silledar Troops) and the Palace
Troops.

16) A draft Emergency ordinance
14/5/15 is put up for approval. As Mr. Durbas
has agreed to consider what steps should be
taken in this matter the present stoppage
seems necessary

14/5

First-Member)

17) Draft approved for disposal
Circulate by C.S.
14/5/15

15/5/15

18) For favour of order for circulation.

17-5

Secy)

C.S.

18/5/15

18/5

19) approved
23/5

25/5

General and Revenue
Secretariat.*Lps* File No. 57 of 1914-15Serial
No.

3

Us 3693 dated 26th May 1915
From the J. A. Resident in Mysore
Forwards 2 copies of the Indian Sold
(Litigation) Ordinance 1915 (II of 1915)

General and Revenue
Secretariat.

28/5 File No. 57 of 1914

Serial
No.

21 Submitted with a draft Submission Table

28

28/5

~~7558~~
28-5-15

Secy
(D. C. W. C. W.)

Dr. C. W. C. W.
28/5

Submitted to His Highness.

*Draft for
approval*

R

*Paper under
disposal*

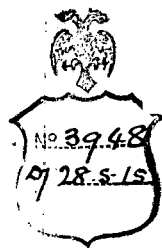
I submit for favour of approval the draft of a Regulation extending to Mysore the provisions of the Indian soldiers (Litigation) Ordinance, II of 1915, promulgated by the Government of India under Section 23, of the Indian Councils Act, 1861. The measure is undertaken at the instance of the Residency.

2. The other Members of Council and myself agree that in view of the urgency of the enactment, it may be passed under section 15 of the Mysore Legislative Council Regulation.

3. The draft Regulation may be ^{graciously} approved.

28/5/15

H. M. Munday



**Record of Cases submitted for the Orders
of His Highness the Maharaja.**

Subject.

Draft of a Regulation extending to
Mysore the provisions of the Indian
Soldiers (Litigation) Ordinance II of
1915

Secretariat

Legi

File No.

of 1914-15

Serial
No.

do with a draft order to the
Comptroller Mysore Gazette

CB
17/6/15 *ML*

Issue

83/7
✓

No 9415 dated 2nd June 1915
to the Comptroller Mysore Gazette
Orders that the Indian Soldiers
Litigation (Emergency) Regulation
which received the assent of H.H.
Maharaja on the 29th May 1915 be
promulgated as Regn. V of 1915.

Serial
No.

spare copies of the Indian Soldiers
Litigation (Emergency) Regulation, 1915,
have been received from the Press
and 11 copies have to be sent as
usual to the Residency. A draft, mt. up

CB
17/6/15 *ML*

Issue

83/7
✓

No 202 dated 17th June 1915

to the P A Resident

~~He is to~~ Forward 11 copies of the Reg

V 6/3
M
copy
Munro
- / 410
FROM
(leg)

Pal no 1740 d 6.3.15

No. 1629

P. B. WARBURTON, Esq., I. C. S.,

FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Dewan of Mysore.

DIARY No. 7658

Dated Bangalore, 6th March 1915.

10/4 1915
SECTION 4. In the
LE No. 319-14 57-14
1
SIR,

I am directed to state that the Government of India have under consideration the question of legislation with the object of affording protection to Indian soldiers from civil litigation in British India during war time.

2. The Durbars of some Native States have already initiated similar action and I am now to bring the matter to the notice of the Mysore Durbar who will doubtless consider what steps should be taken with a view to protect in the State the interests of soldiers whether belonging to the Imperial Service Troops or to the Indian Army who are unable ~~to~~ on account of the war to look after their own affairs. It may be pointed out that no soldiers on active service are incapacitated from attending court but also, in many cases, those performing ordinary duties in India, since it is inconvenient at present to permit them to leave their regiments.

Copies of the British Indian Ordinance on the subject will, when ready, be forwarded for the information of the Durbar.

have the honour to be,

Sir,

Your most obedient servant,

MBW

First Assistant Resident.

MS

Diary No. of letter replied to.

General and Revenue Secretariat

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To

The F. A. Resident in Mysore

fir.

Date of issue 13-3-15

Signed by M. S. Vanevsky, R.R.

I am directed to acknowledge the receipt of your letter No. 1629 of 6th March 1915 bringing to the notice of the Durbar the necessity of taking prompt measures for protecting in the State the interests of Soldiers whether belonging to the Indian Army or the Imperial Service Troops who are unable on account of the war to look over.

SUBJECT.

after their own affairs.

I am to state in reply
that the Durbar will be
quite prepared to con-
sider what steps should
be taken in the matter on
~~and they only await the~~
receipt of the British
Indian Ordinance on
the subject.

I have etc

1881
12/3

Dec 13/0

Offg Secy

VS ^{hms}

List of enclosures

Copied by

Examined by

Pol 2328 D/26.5.15

No 3643

FROM

P. B. Warburton, Esq., I. C. S.,

FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

DIARY No. *J 3725*
~~1057~~

To

The Dewan of Mysore

13/4/15	
SECTION	<i>Legis</i>
FILE No.	<i>57</i>
SERIAL No.	<i>3</i>

Dated Bangalore, 26th May 1915

SIR,

With reference to the correspondence ending with Mr. Narasinga Rao's letter No. 886 Pol., dated the 13th March 1915, I am directed to forward a copy* of the Indian Soldiers (Litigation) Ordinance, 1915 (II of 1915).

th a
recopy.

I have the honour to be,

Sir,

Your most obedient servant,

P. B. Warburton

First Assistant Resident.

MR

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT

NOTIFICATION.

Simla, the 5th May, 1915.

An Ordinance to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions.

WHEREAS an emergency has arisen which renders it necessary to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions.

Now, therefore, in exercise of the power conferred by section 23 of the Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance :—

Ordinance No. II of 1915.

1. (1) This Ordinance may be called the Indian Soldiers (Litigation) Ordinance, 1915.

Short title and extent.

(2) It extends to the whole of British India, including British Baluchistan.

2. In this Ordinance, "Indian soldier" means any person subject to the Indian Army Act, 1911,

Definitions.

"prescribed" means prescribed by rules made under this Ordinance;

"proceeding" includes suit and appeal,

"serving under war conditions" means serving out of India or serving in India when such service has been declared by notification of the Governor General in Council in the *Gazette of India* to be service under war conditions.

3. If any person presenting any plaint, application or appeal to any Civil or Revenue Court has reason to believe that any adverse party is an Indian soldier who is serving under war conditions, he shall state the fact in his plaint, appeal or application.

4. If any Civil or Revenue Court has reason to believe that any party to any proceeding pending before such Court is an Indian soldier who is serving under war conditions and that such soldier is not represented in the proceeding by any person duly authorized to appear, plead, or act on his behalf, such Court shall give notice thereof in the prescribed manner to the prescribed authority.

5. On receipt of a notice under section 4, the prescribed authority may, if it is of opinion that a postponement of the proceeding as against such soldier is necessary in the interests of justice, certify the fact in the prescribed manner to the Court in which the proceeding is pending and thereupon such Court shall postpone the proceeding as against such soldier for the prescribed period or, if no period has been prescribed, for such period as it thinks fit.

6. If, after the issue of a notice under section 4, the prescribed authority either certifies that such postponement is not necessary or fails to certify, in the case of a soldier resident in the district in which the Court is situate within two months, or in any other case within three months from the date of the issue of the notice under section 4, that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

7. If the Collector has reason to believe that any Indian soldier who ordinarily resides, or who has property, in his district and is serving under war conditions, is a party to any proceeding pending before any Civil or Revenue Court and that such soldier is not represented in such proceeding by any person duly authorized to appear, plead, and act in his behalf, the Collector may, if he is of opinion that a postponement of the proceeding as against such soldier is necessary in the interests of justice, certify the fact in the prescribed manner to such Court, and if the Court is satisfied that such Indian soldier is not so represented, the Court shall postpone the proceeding as against such soldier in the manner provided in section 5.

8. (1) In any proceeding before a Civil or Revenue Court in which a decree or order has been passed against any Indian soldier whilst such soldier was serving under war conditions, such soldier may apply to the Court which passed the same for an order to set it aside; and if he satisfies the Court that default after the commencement of this Ordinance has been made in complying with the provisions of sections 3 or 4, the Court shall, or, in any other case if the interests of justice require such a course, the Court subject to such conditions (if any) as it thinks fit to impose, may, make an order setting aside the decree or order as against such soldier;

Provided, firstly, that any such application is made within three months from the date on which such soldier ceased to serve under war conditions; secondly, that no decree or order shall be set aside on any such application unless notice thereof has been served on the opposite party; and thirdly, that when the decree or order is of such a nature that it cannot be set aside as against such soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(2) The provisions of section 5 of the Indian Limitation Act, 1908, shall apply to applications under this section.

IX of 1908.

(3) Where an order is made in the exercise of the power conferred by sub-section (1) the Court shall continue the proceeding.

9. If any Civil or Revenue Court is in doubt whether any Indian soldier is or was at any particular time serving under war conditions, such Court may refer the point for the decision of the prescribed authority and the certificate of such authority shall be conclusive evidence on the point.

10. The Local Government, after consulting the High Court, may, by Rule-making power. notification in the local official gazette, make rules—

- (a) prescribing the manner and form in which any notice or certificate under this Ordinance shall be given and the authorities to whom such notices shall be given and by whom the powers under this Ordinance shall be exercised,

(b) the period for which proceedings or any class of proceeding shall be suspended under this Ordinance, and

(c) generally providing for any matters incidental to the purposes of this Ordinance.

11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908, or any other law for the time being in force for any suit, appeal or application to any Civil or Revenue Court in which the plaintiff, appellant or applicant is an Indian soldier, the time during which such soldier has been serving under war conditions, since the 4th of August, 1914, shall be excluded. IX of 1908.

HARDINGE OF PENSHURST,

Viceroy and Governor-General.

W. H. VINCENT,

Secretary to the Government of India.

Legis File No. 57-16
Serial No. 6

Diary No. of letter replied to _____

GENERAL AND REVENUE
SECRETARIAT.
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191

*Proceedings of the Government of His Highness
the Maharaja of Mysore*

~~READ~~

Date of issue _____

2 June 1915

Signed by *M. G. Sreenivasa Rao*

ORDER THEREON.—No. *4157*

*Ordered that the
accompanying ~~draft~~ Rules
viz the Indian Soldiers Litigation
(Emergency) Regulation which received
the assent of His Highness the
over.*

SUBJECT.

Maharaja on the 29th day of
May 1915 be published in the
Mysore Gazette in English and
Kannada as Regu II of 1915

8
2/6/15
For Secretary to Govt

70

The complete Mysore Gazette
for publication i Part
III of this ^{week} Gazette in English
and Kannada and for supplying
200 spare copies in English and
100 in Kannada to this office
and 100 in English and 50 in
Kannada to the Curator Govt
Central Book Dept Bangalore
Proof ^{should} ~~may~~ be sent for appro-
before 4 P.M today

Regulation No V of 1915

Received the assent of His
Highness the Maharaja on the
29th day of May 1915

The Indian Soldiers
Litigation (Emergency) Regulation

Is the translation
section for need?

4/6/15

Whereas it is expedient
to enforce in Mysore the provisions
of the Indian Soldiers (Litigation)
Ordinance No. II of 1915, made
and promulgated by the
Government of India and
section 3 of the Indian Councils
Act, 1861 His Highness the
Maharaja has pleased to make,
under section 15 of the Mysore
Legislative Council Regulation, 1907
as follow

- 1 The Indian ~~Soldiers~~ Soldier
(Litigation) Ordinance 1915,
shall, mutatis mutandis
be enforced in Mysore as
long as and to the same
extent as, the Ordinance
is in force in British India
2. It shall also apply ^{to}
^{all the} the ~~case~~ of a member of the

Mysore Military Forces
(as defined in the Code of
civil Procedure 1911,) on
active service in the same
way and to the same extent
as in the case of an Indian
soldier

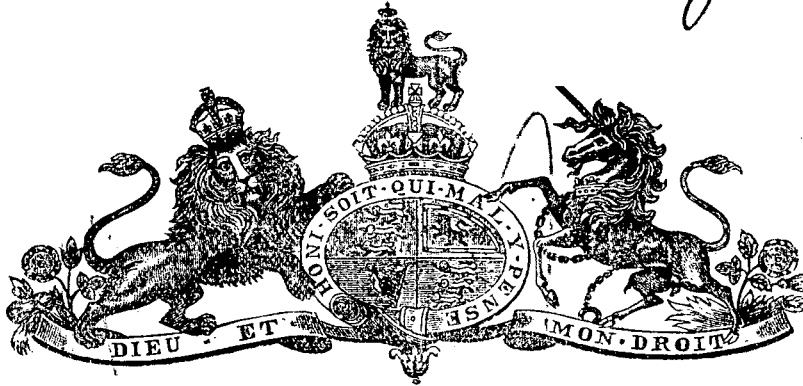
M. Visvesvaraya

Deewan of Mysore

8
14/5/15 [Here from the accompanying
Mysore Soldier's (Litigation
Ordinance, No. II of 1915.)]

H. V.

J In 570-14



The Gazette of India.

EXTRAORDINARY

PUBLISHED BY AUTHORITY.

SIMLA, WEDNESDAY, MAY 5, 1915.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

Simla, the 5th May, 1915.

An Ordinance to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions.

WHEREAS an emergency has arisen which renders it necessary to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions.

Now, therefore, in exercise of the power conferred by section 23 of the Indian Councils Act, 1861, the Governor General is pleased to make and promulgate the following Ordinance:—

Ordinance No. II of 1915.

1. (1) This Ordinance may be called the Indian Soldiers (Litigation) Ordinance, 1915.

(2) It extends to the whole of British India, including British Baluchistan.

2. In this Ordinance, "Indian soldier" means any person subject to the Indian Army Act,

Definitions.

"prescribed" means prescribed by rules made under this Ordinance,

"proceeding" includes suit and appeal,

"serving under war conditions" means serving out of India or serving in India when such service has been declared by notification of the

Governor General in Council in the *Gazette of India* to be service under war conditions.

3. If any person presenting any plaint, application or appeal to any Civil or Revenue Court has reason to believe that any adverse party is an Indian soldier who is serving under war conditions, he shall state the fact in his plaint, appeal or application.

4. If any Civil or Revenue Court has reason to believe that any party to any proceeding pending before such Court is an Indian soldier who is serving under war conditions and that such soldier is not represented in the proceeding by any person duly authorized to appear, plead, or act on his behalf, such Court shall give notice thereof in the prescribed manner to the prescribed authority.

5. On receipt of a notice under section 4, the Postponement of proceedings. prescribed authority may, if it is of opinion that a postponement of the proceeding as against such soldier is necessary in the interests of justice, certify the fact in the prescribed manner to the Court in which the proceeding is pending and thereupon such Court shall postpone the proceeding as against such soldier for the prescribed period or, if no period has been prescribed, for such period as it thinks fit.

24 and 25
Vict., c. 67.

VIII of 1911.
1911,

6. If, after the issue of a notice under section 4, the prescribed authority either certifies that such postponement is not necessary or fails to certify, in the case of a soldier resident in the district in which the Court is situate within two months, or in any other case within three months from the date of the issue of the notice under section 4, that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

7. If the Collector has reason to believe that any Indian soldier who ordinarily resides, or who has property, in his district and is serving under war conditions, is a party to any proceeding pending before any Civil or Revenue Court and that such soldier is not represented in such proceeding by any person duly authorized to appear, plead, and act in his behalf, the Collector may, if he is of opinion that a postponement of the proceeding as against such soldier is necessary in the interests of justice, certify the fact in the prescribed manner to such Court, and if the Court is satisfied that such Indian soldier is not so represented, the Court shall postpone the proceeding as against such soldier in the manner provided in section 5.

8. (i) In any proceeding before a Civil or Revenue Court in which a decree or order has been passed against any Indian soldier whilst such soldier was serving under war conditions, such soldier may apply to the Court which passed the same for an order to set it aside; and if he satisfies the Court that default after the commencement of this Ordinance has been made in complying with the provisions of sections 3 or 4, the Court shall, or, in any other case if the interests of justice require such a course, the Court subject to such conditions (if any) as it thinks fit to impose, may, make an order setting aside the decree or order as against such soldier:

Provided, firstly, that any such application is made within three months from the date on which such soldier ceased to serve under war conditions; secondly, that no decree or order shall be set aside on any such application unless notice thereof has been served on the opposite party; and thirdly, that when the decree or order is of such a

nature that it cannot be set aside as against such soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(2) The provisions of section 5 of the Indian Limitation Act, 1908, shall apply to applications under this section. IX of 1908.

(3) Where an order is made in the exercise of the power conferred by sub-section (1) the Court shall continue the proceeding.

9. If any Civil or Revenue Court is in doubt whether any Indian soldier is or was at any particular time serving under war conditions, such Court may refer the point for the decision of the prescribed authority and the certificate of such authority shall be conclusive evidence on the point.

10. The Local Government, after consulting the High Court, may, by Rule-making power. notification in the local official gazette, make rules—

(a) prescribing the manner and form in which any notice or certificate under this Ordinance shall be given and the authorities to whom such notices shall be given and by whom the powers under this Ordinance shall be exercised,

(b) the period for which proceedings or any class of proceeding shall be suspended under this Ordinance, and

(c) generally providing for any matters incidental to the purposes of this Ordinance.

11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908, or any other law for the time being in force for any suit, appeal or application to any Civil or Revenue Court in which the plaintiff, appellant or applicant is an Indian soldier, the time during which such soldier has been serving under war conditions, since the 4th of August, 1914, shall be excluded.

HARDINGE OF PENSHURST,
Viceroy and Governor-General.

W. H. VINCENT,
Secretary to the Government of India.

Diary No. of letter replied to

General and Revenue Secretariat

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, the 191

No. Pol. 202
Gu 11

To The F. A. Resident in Mysore
Bangalore

Date of issue 17th August 1915

Signed by Mr D. M. Narasimhaiah

Sir

I am directed to forward
herewith 11 copies of the Indian
Soldiers Litigation (Emergencies
Regulation, 1915, No V of 1915,
and to request you to be
so good as to forward two
copies of the same to the
Nizam's Government.

I have &

By 14/8/15
Secretary

SUBJECT.